

The 13th May, 1969

No. 28HA/63G/152.—In notification No. 28HA/63G/144, dated 10th April, 1969 of Gurgaon Circle PWD, B and R Branch, under section IV of the Land Acquisition Act, 1894 published in Haryana Government Gazette dated 29th April, 1969 at page 272 the name of village may kindly be read as *Melawas* instead of *Mohawas*.

T. S. LAMBA,

Superintending Engineer,
Gurgaon Circle, PWD, B. & R.

IRRIGATION BRANCH

DECLARATIONS

The 22nd May, 1969

No. 3521 Project/P(4) 1172/67/VI.—Whereas it appears to the Governor of Haryana that land required to be taken by Government, at the public expense, for a public purpose, namely, for constructing 5 number pump houses in reach 'F' Part II in Tehsil Thanesar, District Karnal, it is hereby declared that the land described in the specification below is required for the above purpose.

The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provision of section 7 of the said Act, Land Acquisition Officer, B. & R., Ambala, is hereby directed to take order for the acquisition of the said land.

Plans of the land may be inspected in the office of the Land Acquisition Officer, B. & R. Ambala and of the Executive Engineer, Construction Division No. I, Karnal.

In view of the urgency of the acquisition, the Governor of Haryana, in exercise of the powers under section 17(i) of the said Act, is further pleased to direct that the Land Acquisition Officer, B & R, Ambala shall proceed to take possession out of the land herein specified any waste or arable land in accordance therewith.

SPECIFICATION

District	Tehsil	Village	Habbast number	Area in acres	Direction
Karnal	Thanesar	Halahar	1	0.14	5 numbers plot of land in Field number 51/7, 51/4, 58/11/2, 13/19, 46/13, 119, 115/2, 13/18, as shown on the plan, and demarcated at site.

No. 3530/Project/(4)/1172/67/VI.—Whereas it appears to the Governor of Haryana that land is required to be taken by Government, at the public expense, for a public purpose, namely, for constructing tube-well water-carrier channel from R.D. 1,565 to R.D. 11,725 with link channel from R.D. 0 to R.D. 690 pump houses and operator Quarter for tube-wells number 1 to 7 in reach 'S-I' in Tehsil and district Karnal, it is hereby declared that the land described in the specification below is required for the above purpose.

The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provision of section 7 of the said Act, Land Acquisition Officer, B. & R., Ambala, is hereby directed to take order for the acquisition of the said land.

Plans of the land may be inspected in the office of the Land Acquisition Officer, B. & R., Ambala and of the Executive Engineer, Construction Division No. I, Karnal.]

In view of the urgency of the acquisition, the Governor of Haryana, in exercise of the powers under section 17(i) of the said Act, is further pleased to direct that the Land Acquisition Officer, B & R, Ambala, shall proceed to take possession out of the land herein specified any waste or arable land in accordance therewith.

SPECIFICATION

District	Tehsil	Village	Hadbast No.	Area in acres	Direction
Karnal	Karnal	Kherimunak	71	0.03	A strip of land 10,160 feet in length varying in widths lying generally in the direction from north-east to south-west with link channel having length 690 feet with pump houses and operator quarter for tubewells 1 to 5 and separate plots of land for pump houses for tubewell 6 to 7 in plots number 26/25, 18/13 as shown in the plan and as demarcated at site.
Karnal	Karnal	Gagsina	16	20.68	

By order of the Governor of Haryana,

A.D. CHOWDHRI,

Chief Engineer,
Irrigation Projects, Haryana,
Chandigarh.

The 16th May, 1969

No. 2064/Rc/4718/62.—Whereas the Governor of Haryana is satisfied that land specified below is needed by Government, at the public expense, for a public purpose, namely, for constructing Bahadargah Link Drain from R.D. 14,280 to R.D. 16,440, it is hereby declared that the land described in the specification below is required for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Rohtak is hereby directed to take orders for the said land.

Plans of the land may be inspected in the office of the Land Acquisition Collector, P.W.D., B&R, Ambala Cantt. and of the Executive Engineer, Delhi Division W.J.C. (East), 3-Alipur Road, Delhi.

SPECIFICATION

District	Tehsil	Mauzah	Area in acres	Direction
Rohtak	Jhajjar	Balaur	1.50	A strip of land 2,160 feet long
Rohtak	Jhajjar	Bahadurgarh	1.50	and 60.5 feet wide lying
		Total	3.00	generally in the direction north-west to south-east as demarcated at site and shown on the Index plan.

B. K. UPPAL,

Chief Engineer,
Irrigation Works, Haryana, Chandigarh.

LABOUR DEPARTMENT

The 19th May, 1969

No. 2694-3Lab-69/11604.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No XIV of 1947), the Governor of Haryana is pleased to publish the following award of the

Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of M/s Hansi Sharma Transport Co-operative Society Ltd., Hansi, district Hissar :—

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 23 of 1969

between

SHRI PURAN, WORKMAN AND THE MANAGEMENT OF M/S HANSI SHARMA TRANSPORT CO-OPERATIVE SOCIETY LTD., HANSI, DISTRICT HISSAR

Present :

Nemo for the workman.

Nemo for the management.

AWARD

Shri Puran was employed as a driver in M/s Hansi Sharma Transport Co-operative Society Ltd., Hansi, District Hissar. His services were dispensed with and this gave rise to an industrial dispute. The Government of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/HSR/60-A/69, dated 18th February, 1969:—

Whether the termination of services of Shri Puran was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, usual notices were issued to the parties under registered cover acknowledgement due for 25th April, 1969. Service on both the parties have been effected but neither party has cared to appear before this court.

Since the workman has not led any evidence in support of the allegations made by him in his notice of demand that his services have been wrongfully terminated, it cannot be said that the termination of his services was not justified and in order. He is, therefore, not entitled to any relief. I give my award accordingly. No order as to costs.

Dated 29th April, 1969.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Faridabad.

No. 2029, dated the 30th April, 1969

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

No. 2699-3Lab-69/11605.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and management of M/S Napoo Bevel Gears of India Ltd., Faridabad:—

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 64 of 1967

between

SHRI S.C. SABHARWAL WORKMAN AND THE MANAGEMENT OF M/S NAPOO BEVEL GEARS OF INDIA LTD., FARIDABAD

Present:—

Nemo for the workman.

Nemo for the management.

AWARD

Shri S.C. Sabharwal was in the service of M/s Napoo Bevel Gears of India Ltd., Faridabad as a clerk. His services were terminated and this gave rise to an industrial dispute. The Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication *vide* Government Gazette Notification No. 215-SF-III-Lab-67/21761, dated 28th July, 1967:—

Whether the termination of services of Shri S.C. Sabharwal was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, usual notices were issued to the parties. No body appeared on behalf of the management although a number of notices under registered cover were issued to them. A letter dated 22nd November, 1967, purporting to be on behalf of the management was received in which it is stated that the Government have seized the respondent factory without any notice and so all the workers and staff had been retrenched. Since no body appeared on behalf of the management the workman was called upon to produce evidence in support of his case. A number of adjournments were given to him to produce his evidence but he too failed to produce any evidence.

Since the workman has given no evidence in support of the allegations made by him, it cannot be said that the termination of his services was wrongful. So he is not entitled to any relief. I give my award accordingly. No order as to costs.

Dated the 24th April, 1969

P.N. THUKRAL,
Presiding Officer

Labour Court, Faridabad.

No. 2028
The 30th April, 1969

Forwarded (four copies) to the Secretary to Government, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

No. 2751-3Lab-69/11608.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and management of M/s K. Streetlite Electric Corporation, N.I.T. Faridabad:—

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 80 of 1967

Betwene

THE WORKMEN AND THE MANAGEMENT OF M/S K. STREETLITE ELECTRIC CORPORATION,
N.I.T. FARIDABAD

Present—

- Shri Darshan Singh, for the workmen.
- Shri D.D. Verma, for the management.

AWARD

Sarvshri Ayudhia Nath and Hari Om were in the service of M/s K. Streetlite Electric Corporation, N.I.T. Faridabad. Their services were terminated as a result of domestic enquiry held against them on certain charges of misconduct. This gave rise to an industrial dispute and the Governor of Haryana, in exercise of the powers conferred by clause(c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. 309-SFIII-Lab-67, dated 2nd September, 1967:—

Whether the termination of services of Sarvshri Ayudhia Nath and Hari Ram is justified and in order? If not, to what relief are they entitled?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workmen and the management filed their written statement. A number of preliminary objections have been raised on behalf of the management. It is pleaded that the statement of claims filed on behalf of the workmen is not in accordance with the provisions of the Industrial Disputes Act and the rules made there under and is, therefore, liable to be rejected. As regards Shri Hari Om it is pleaded that in the order of reference his name is mentioned as Hari Ram and therefore, there is no valid reference with regard to this workman. On behalf of the workmen it is pleaded that it is only a typographical mistake in the printing.

As regards the merits it is pleaded on behalf of the management that both the workmen held a meeting just outside the gate of the respondent factory and raised abusive and defamatory slogans against Shri Ishwar Singh and others who are loyal to the management. As regards Ayudhia Nath it is also alleged that in the meeting he forced a number of workers under the threat of physical beating to join him in raising abusive and defamatory slogans and on the next day, i.e., on 12nd May, 1967 at 12.15 a.m. he along with two other co-workers, namely, Shri Hari Om and Sham Lal went out of the factory gate to see the flags hoisted at the gate and on seeing the flag poll inclining, he accused Ho Ram Chowkidar for having disturbed the flag and threatened him to join them in raising abusive slogans. Accordingly domestic enquiries against both the workmen were held in which their guilt were satisfactorily established and they were dismissed from services.

On behalf of the workmen it is pleaded that they were agitating for their legal and just demands such as interim relief, uniform and dearness allowance etc. and a demand notice was pending before the Conciliation Officer, Faridabad, and gate meeting was being held to achieve their just demands but the management took up a vindictive attitude and in order to victimise the union leaders, charge-sheeted them on baseless and fabricated grounds. The validity of the domestic inquiries held against them has also been challenged on various grounds.

The pleadings of the parties gave rise to the following issues :—

- (1) Whether the statement of claim is not in accordance with the provisions of the Industrial Disputes Act, 1947 and rules made thereunder and therefore, it is liable to be rejected?
- (2) Whether there is no reference with regard to Hari Om and for this reason his case cannot be adjudicated upon?
- (3) Whether there is only a typographical mistake so far as the name of Shri Hari Om concerned and therefore, his case can be adjudicated upon?
- (4) Whether the termination of services of Sarvshri Ayudhia Nath and Hari Om is justified and in order? If not, to what relief they are entitled?

The parties have produced evidence in support of their respective contentions. I have gone through the evidence and have heard the learned representative of the parties. My findings are as under :—

Issue No. 1.—The learned representative of the management has not drawn my attention to any provision of the Industrial Disputes Act or any rule made thereunder which is said to have been contravened. All that can be said is that the statement of claim filed on behalf of the workmen simply bears the signatures of their representative and is not duly verified or signed by the parties. The technical provisions with regard to the verification etc. do not apply to the pleadings filed in the Labour Court. I find this issue in favour of the workmen.

Issues Nos. 2 and 3.—The Governor of Haryana has issued a corrigendum Notification No. 12552-3Lab-67/SF/505, dated 11th January, 1968, by which the name of Hari Om workman concerned has been corrected. These issues, therefore, now do not need any decision.

Issue No. 4.—The management havemainly relied upon the domestic enquiries held by their Factory Manager Shri K.C. Koli M.W.I. These enquiries have been duly approved by Shri Koli and have been marked as Ex. M.3 and Ex. M. 4. Shri Kohli has stated that both the workmen participated in the enquiry throughout and they were given an opportunity to cross-examine the witness who appeared on behalf of the management and to give their own evidence and both the workmen availed of both these opportunities.

As regards the case of Shri Ajudhia Nath the record of the enquiry does not show specifically that an opportunity was given to him to cross-examine Shri R.P. Mahindra, Incharge Workshop. It is submitted by the learned representative of the management that the mere fact that the record of the enquiry does not show that the workman was given an opportunity to cross-examine the witness but he did not avail of the opportunity would not be itself vitiated the enquiry if in fact the workman had an opportunity to cross-examine the witness but he did not avail of it. In support of this submission reliance has been placed upon A.I.R. 1957 S.C. 882. There can not be any dispute about this proposition of law and the submission of the learned representative in this respect is correct but after carefull y going through the record of the domestic enquires I am of the opinion that both enquiries violate the principles of natural justice and the findings of the Enquiry Officer are perverse. A number of charges were framed against the workmen but the management produced no acceptable evidence on the basis of which the workmen could be held guilty. I will deal with the case of each workman separately in order to show that the conclusion s arrived at by the Enquiry Officer are perverse.

The first charge against Shri Ajudhia Nath is that he raised abusive and defamatory slogans against Shri Ishwer Singh and others who are loyal to the management. It is not mentioned what were the actual words which were used by the workman and who the other loyal workmen were who were also abused along with Shri Ishwer Singh. The interest of justice required that the workman should have been informed that slogans were being imputed to him so that he could know beforehand the case which he had to meet. In the written statement the workman did not deny raising slogans. He pleaded that they were agitating for their legal rights and demands such as interim relief, uniform and dearness allowance etc. and gate meetings were held to achieve their just amount. As regards the actual slogans which according to the management were raised by the workman Shri Ajudhia Nath he was informed of the same for the first time only during the course of the domestic enquiry and not earlier. The slogans said to have been raised by the workman were as under :—

“(1) Malak Ka Chamcha Ka Nash Ho, (2) Malak Ki Juti Chatna Wala Ka Nash Ho, (3) Malak Ka Chetar Chatna Wala Ka Nash Ho, (4) Tel Tambacoo Rakhan Wala Ka Nash Ho, (5) Do Paisa Me Vikne Wala Ka Nash Ho, (6) Malak Ka Atta Peesna Wala Ka Nash Ho.”

In my opinion the workman was prejudiced in his defence because he was not informed of the slogans which are imputed to him. It may be pointed out at this stage that the charge against the workman was that he raised abusive and defamatory slogans against Shri Ishwar Singh and others who are loyal to the management. Even the evidence before the Enquiry Officer does not show who were those otherloyal workmen against whom abusive and defamatory slogans were raised.

On merits also it does not appear that the principles of natural justice were observed by the Enquiry Officer. Shri Mohindra Incharge Workshop was the first witness to be examined. He narrated in detail the derogatory slogans said to have been raised by the workman and also said that Shri Ho Ram Watchman was threatened with violence. The workman was not admitting the correctness of the evidence of this witness but still the witness was not cross-examined and the record does not show that an opportunity was given to the workman to cross-examine the witness and he did not avail of the opportunity. The workman was not assisted during the course of the enquiry and only conclusion which can be drawn is that the workman was possibly not even aware that he had a right of cross-examination or even knew what cross-examination means.

It may also be pointed out at this stage that although Sarvshri Ajudhia Nath and Hari Om along with a large number of their workmen held a gate meeting on 11th April, 1967, at 4.30 p.m. in which objectionable

slogans were said to have been raised but only Ajudhia Nath and Hari Om were picked out. The charges against both the workmen with regard to raising of the slogans is exactly the same and the witnesses were also the same, yet separate inquiries were held against them. If the Enquiry Officer held Shri Ajudhia Nath guilty he could not possibly decide otherwise when holding the enquiry against Shri Hari Om and so the enquiry against Shri Hari Om could be nothing but a hoax. I would not have taken notice of this technical defect in the procedure but I am making this observation because it is not possible to ignore the evidence of Shri Mohindra which he gave when he appeared as a witness against Shri Hari Om. The witness admitted in course of that enquiry that he was not actually present when the slogans were being raised as he was at that time in his office but he was receiving reports from the persons who were on duty at the gate. The witness of course did not oblige the Enquiry Officer by telling him who those persons were from whom he was receiving the reports. A direct question was put to him as to whether he had himself heard the slogans being raised or that he was giving his evidence on the basis of the reports received by him to which the witness replied that he had himself heard the slogans when they were being raised loudly. The next question put to the witness was whether he had seen with his own eyes the persons who were raising the slogans to which the witness replied that he himself did not try to see the persons who were raising the slogans.

I am not unaware of the legal proposition that the evidence recorded in one case cannot be considered as evidence in another case but it is also not possible to lose sight of the fact that a domestic inquiry is not to be treated as a trial in the strict legal sense. Such inquiries are held primarily for the purpose of finding the facts. The Enquiry Officer was, therefore, not fair when he relied upon the evidence of Shri Mohindra in the case against Shri Ajudhia Nath on the ground that he was Engineer in charge of the respondent factory and his evidence had not been challenged in any way.

As regards Shri Ishwar Singh he does not say that when Shri Ajudhia Nath along with others was raising the slogans, he was named by any body. He simply says that a gesture were made towards him but does not say what that gesture was. The importance of a gesture is not less than that of a spoken word and it was, therefore, very necessary for the witness to tell what that gesture was from which he concluded that he was being abused. It is not the case of the management that Shri Ishwar Singh was standing in the way of the demands which had been raised by the claimant and his companions and for this reason they were abusing him. Under these circumstances it was all the more necessary for Shri Ishwar Singh to have stated what gestures were made by the claimant from which he concluded that he was being abused.

Shri Ho Ram Watchman whose duty is to remain at the gate was the next witness examined. He does not say anything about the slogans. If any derogatory slogans had in fact been raised against Shri Ishwar Singh or others, this witness could not have been unaware of this fact. As regards the remaining witnesses a novel procedure was adopted by the Enquiry Officer. Instead of asking the witnesses to tell him what slogans if any raised by the workmen concerned leading questions were put to them and the slogans in question were suggested to them and the witnesses simply replied either in affirmative or negative. Under these circumstances it cannot be said that the principles of natural justice were observed by the Enquiry Officer and in my opinion his conclusion that Shri Ajudhia Nath raised abusive and defamatory slogans against Shri Ishwar Singh is perverse.

As regards the second charge that on 11th April, 1967 and on all the subsequent dates when gate meetings were held at the factory Shri Ajudhia Nath forced a number of workers under the threat of physical beatings to join him in raising abusive and defamatory slogans against various members of the management, even the Enquiry Officer has held that there was no evidence in support of this charge. All the witnesses who appeared before the Enquiry Officer denied that any one of them was forced to raise any slogans. The third charge against Shri Ajudhia Nath is that almost after about a month, i.e., on 12th May, 1967 at about 12.15 p.m. he along with his co-workers Shri Hari Om and Sham Lal went out of factory gate to see their flags hoisted at the gate but on seeing the poll of the flag inclining on one side he accused the watchman Ho Ram of having disturbed the flag and threatened him with physical beating unless he also joined him in raising the abusive slogans and on his pleading ignorance about the flag, the workman threatened to pull out his arms the moment he went out of the factory. Even Shri Ho Ram does not say that he was threatened with violence unless he joined the workman in raising the abusive slogans. On the contrary the evidence of Shri Ho Ram is only to the effect that Shri Ajudhia Nath lost his temper and accused him of disturbing the pole of the flag and he along with his two other companions, namely, Hari Om and Sham Lal told him that in case he touched the flag in their presence they would pull out his arms. Thus the only fact proved is that Shri Ho Ram was unnecessarily accused of disturbing the pole of the flag and not that he was threatened with violence in case he did not join the workmen in raising the slogans or that he was given the threat that his arms would be pulled out, the moment he came out of the factory because he had disturbed the flags.

Thus we see that the conclusion of the Enquiry Officer that the charges framed against the workman were fully established by the evidence produced before him is perverse. In my opinion, therefore, the order of the management terminating the services of Shri Ajudhia Nath was not justified and in order. He is entitled to be reinstated with continuity of service and full back wages.

As regards Shri Hari Om the slogans said to have been raised by him are repeated in the charge-sheet itself. The further charges against him are that he called a gate meeting on 11th April, 1967 at 4.30 p.m. and this caused obstruction to the incoming and outgoing traffic and thirdly, he also intimidated Shri Ishwar Singh and threatened to use force and violence against him and other persons who are loyal to the management. The workmen in reply to the charge sheet admitted that he did hold a gate meeting but pleaded that only the usual slogans which are normally shouted by the members of trade unions were raised by him and the kind of slogans imput to him in the charge sheet were never raised by him. He also denied that he intimidated any body or threatened to use violence or force against Shri Ishwar Singh or any other person. The charge sheet against this workman is vague to this extent that it does not indicate in what manner he intimidated Shri Ishwar Singh and what threats he held out against him and other loyal workers or what force of violence was threatened to be used. The charge that by holding a gate meeting the incoming and out going traffic was obstructed, need not be considered because the Enquiry Officer has also come to the conclusion that this charge is not established.

As regards the charge of raising objectionable slogans, Shri R.P. Mahindra, Incharge Workshop was the first witness who appeared before the Enquiry Officer. The value which can be attached to the evidence of this witness has already been considered in detail while dealing with the case of Shri Ajudhia Nath. As he too was not an eye witness and had no personal knowledge as to who actually raised the slogans so the Enquiry Officer was not justified in relying upon this witness for the purpose of coming to the conclusion that the charges against the workmen were duly established simply on the ground that this witness was incharge of the workshop and was a very responsible person.

The next witness examined by the Enquiry Officer was Shri Ishwar Singh time keeper. The witness has repeated the slogans said to have been raised by Shri Hari Om and added that Shri Hari Om went for raising these slogans at the gate for 5 or 10 minutes and gave a threat to him that he will settle with him outside the gate. The witness does not say that he opposed the demands of the workmen in any manner and for this reason they were angry with him and so threatened him with violence. He also does not say that he was named when slogans were being raised nor does he tell what signs or gestures were made by Shri Hari Om from which he could conclude that the slogans were particularly directed against him. He simply said that Shri Hari Om raised the slogans by making a gesture towards him. The representative of the workman Shri Darshan Singh who is a seasoned trade unionist while arguing the case rightly pointed out that normal practice is that the workers while shouting slogans raise their arm and naturally there is a forward movement of the arm after the shouting of a particular slogan is over and it does not necessarily mean that the slogans are directed against the person who happens to be standing in front of workmen.

The evidence of other witness examined by the Enquiry Officer also does not improve the case of the management. As in the case of Ajudhia Nath the Enquiry Officer adopted a different method in this case also while examining the remaining witness and instead of asking them to give the names of the persons who were present at the gate meeting and what slogans if any were raised by them, the Enquiry Officer allowed leading questions to be put to them even in the examination Chief and it was put to them whether Shri Hari Om was present in the meeting and each of the slogans which according to the management were raised were then put to them one by one and the witness simply replied in affirmative or negative. Such type of examination was nothing but a farce is apparent from the fact that one of the questions put to Shri Chander Bhan M.W.3 was whether these slogans were raised against the workmen of the management and particularly Shri Ishwar Singh. The other workmen were not named but still Shri Chander Bhan replied "Yes sir, the hint was towards Shri Ishwar Singh". No attempt was made to clarify who were the other workmen against whom the slogans were raised.

One of the slogans imputed to Shri Hari Om was "Malak Hum Se Bat Nehi Karta Per En Ke Bap Ko Be Karni Paray Gi" Roughly translated the slogan means the proprietor does not talk to us but even his father will have to talk. With regard to the slogans the charge against the workman was that slogans were raised against Shri Ishwar Singh and others who are loyal to the management" and not that he abused the proprietor himself and even the name of the proprietor said to have been abused is not mentioned. Under these circumstances I am of the opinion that the conclusion of the Enquiry Officer that Shri Hari Om was guilty of raising derogatory slogans against Shri Ishwar Singh or other persons loyal to the management or that he intimidated or threatened Shri Ishwar Singh is perverse and therefore the termination of the services of Shri Hari Om was also not justified and in order. He is entitled to be reinstated with continuity of service and full back wages.

Dated the 3rd May, 1969.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

No. 2112, Dated 6th May, 1969

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

No. 2753-3Lab-69/11612.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and management of M/S Delton Cable Co., Faridabad.

BEF ORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 83 of 1968

Between

SHRI RAM SINGH WORKMAN AND THE MANAGEMENT OF M/S DELTON CABLE CO.,
FARIDABAD

Present:—Shri Roshan Lal Sharma for the workman

Shri R.C. Sharma for the management.

AWARD

Shri Ram Singh was in the service of M/S Delton Cable Co. Faridabad. His grievance is that the management terminated his services with effect from 3rd July, 1958 without any prior notice. This gave rise to an industrial dispute and the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/FD 300-F, dated 19th September, 1968:—

Whether the termination of services of Shri Ram Singh II was justified and in order? If not, to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. The management objected to be vires of Section -2A of the Industrial Disputes Act and also questioned the validity of the constitution of this Court and its jurisdiction to adjudicate upon this dispute. Preliminary issues framed in order to decide these objections and after hearing the learned representatives of the parties, these were found in favour of the workman. On merits the case of the management is that the workman absented himself from duty with effect from 9th July, 1968 without any reason and is now well placed and employed in a good concern and is not interested in the present dispute. It is denied that the workman ever asserted that the management was responsible for terminating his services and as a matter of fact they came to know of the dispute regarding alleged wrongful termination of service when notice was received from the Conciliation Officer. The management have raised a number of other legal objections and the issues which arose from the pleadings of the parties were framed.

The parties were given opportunity to produce their evidence and I have heard the learned representatives of the parties and have carefully gone through the record. The representatives of the management has also given up the other legal objections and the following issues now only need decision:—

8. Whether Shri Ram Singh remained absent from 9th July, 1968 without any reason?
9. Whether the claimant is well placed and employed in a good concern and is not interested in the present dispute?
10. Whether the management came to know of the dispute said to have been raised by the workman only through the notice of the conciliation proceedings?
11. Whether the claimant joined his duty on 30th July, 1968 and he worked from 8.40 A.M. 2.30 P.M. and thereafter he has not attended to his duty?
12. Whether the services of the claimant were terminated on 8th July, 1968 and if so whether the termination of his services was justified or not?

Issue Nos. 8&12.—These issues can conveniently be discussed together. Shri M.K. Kapoor Factory Manager of the respondent concern has appeared as M.W. 1 in support of the version of the management that the claimant is absent from July, 1968. He has stated that the management sent him a number of letters marked Ex. M.W. 1/1 to Ex. M.W. 1/5 under registered cover acknowledgement due in which it was pointed out to him that he was absent from duty without any reason but no reply was received from him. Shri Kapoor further says that during the conciliation proceedings also the management took up the position that the services of the claimant were not terminated but he was absenting himself and he could resume duty. Shri Ragbir Singh Joon M.W. 2 time keeper of the respondent concern has corroborated the testimony of Shri Kapoor. He referred to the attendance card Ex. M.W 2/1 in which the claimant is shown to be absent from 9th July, 1968 onwards with the exception of 30th July, 1968 when he is marked present. Shri Joon states that the name of the claimant is still being written in the register and he was never refused permission to enter the factory. Shri Gulab Chand, M.W.3 Security Officer also states that the claimant was never refused permission to enter the gate of the factory.

In rebuttal we have only the oral testimony of the claimant that the management wanted him to resign his job and on his refusal to do so he was turned out. He does not say why the management wanted him to resign. He also does not explain why he never wrote to the management that he was being refused permission to enter the gate. The claimant has himself produced a letter Ex. W/1 which was written to him by the management in which he was informed that he was not attending to his duty. His representative during the course of arguments explained that it was not necessary to give any reply to this letter because the workman had already raised the dispute as early as 15th July, 1968. There is no plausible explanation as to why the number of registered letters written by the management to the claimant were not received by him. After carefully considering all the evidence I am of the opinion that it does not appear that the management terminated the services of the claimant.

This conclusion is corroborated by the circumstances of the case also. The claimant admits in cross examination that he has worked in M/S Escorts Ltd. for one month at Rs 3.50 paise per day. He denied the suggestion that he has worked there as their employee for six months i.e., 6th August, 1968 to 4th February, 1969. The management have produced a letter Ex. M. W. 1/9 which they have received from M/S Escorts Ltd. in which it is affirmed that the claimant was in their service from 6th August, 1968 to 4th February, 1969. In view of all these facts it cannot be held that the management was responsible for terminating the services of the claimant and I find both the issues No. 8 and 12 in favour of the management.

It is not necessary to decide the remaining issues because it has not been proved that the services of the claimant Ram Singh II have been terminated by the management and he is, therefore, not entitled to any relief. I give my award accordingly. No order as to costs.

P.N. THUKRAL,
Presiding Officer
Labour Court, Faridabad.

No. 2107 dated the 4th May, 1969

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

(P.N. THUKRAL)
Presiding Officer,
Labour Court, Faridabad.

R.I. N. AHOOJA,
Secy.